IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

OP.No. 12545 of 2003(R)

PETITIONER:

SRI.B. SUKUMARAN NAIR,
S/O. K. BALAKRISHNA PILLAI, AGED 53 YEARS,
RESIDING AT G.S. VIHAR, ALANTHARA
VENJARAMOOD P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.P.A.ABDUL JABBAR
SRI.P.J.JOSEPH (PALLIPARAMBIL)

RESPONDENTS:

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1. **THE DIVISIONAL FOREST OFFICER,**
   KALLARVALI TEAK PLANTATION DIVISION,
   ACHANKOVIL.

2. **ASSISTANT CONSERVATOR OF FOREST-SOCIAL**
   FORESTRY DIVISION, THIRUVANANTHAPURAM.

3. **THE CHIEF FOREST CONSERVATOR,**
   FOREST DEPARTMENT, THIRUVANANTHAPURAM.

4. **STATE OF KERALA, REPRESENTED BY**
   CHIEF SECRETARY, SECRETARIAT,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH, J.

O.P. NO. 12545 OF 2003

Dated this the 11th day of December, 2006

J U D G M E N T

The writ petition is filed with the following prayers:-

> "(a) To issue a writ of mandamus or any other writ, order or direction calling for the records relating to the issuance of Ext.P1 and P3 and quash the same to the extent it is impugned in this original petition.
>
> (b) To issue a writ of mandamus or any other writ, order or direction to the respondents directing the respondents to regularise the service of the petitioner treating the period from 24.2.1982 to 26.11.1990 as duty for all purposes making him eligible for all pensionary and other benefits in full.
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> (c) To issue a writ of mandamus or any other writ, order or direction to the respondents 1 to 3 to give salary, increment and other benefits to the petitioner for the period from 24.2.1982 to 26.11.1990."

2. It is seen from the averments in the writ petition itself that the petitioner has not worked during the period. Therefore the respondents are perfectly justified in taking the stand that as a special case, the period of absence of the petitioner could be treated as leave of eligible kind so that a break in service could be avoided. Since the reinstatement of the petitioner is based on the medical certificates produced by him, it is only just, proper

and reasonable that the period is treated as one availed on medical ground. It is also to be noted that the order of reinstatement is based on the medical certificate. Apparently there is no serious dispute as to the unhealthy condition of the petitioner during the disputed period. There is also no case that the petitioner had worked during the relevant time. Now that the petitioner has retired from service and what survives is only the settlement of pensionary benefits.

The writ petition is disposed of making it clear that the period of absence of the petitioner referred to in the prayer will be treated as leave on medical ground. Pensionary benefits due to the petitioner shall be settled and disbursed in the light of the above declaration, if not already settled, within a period of three months from the date of production of a copy of this judgment by the petitioner.

KURIAN JOSEPH, JUDGE

vps

KURIAN JOSEPH, JUDGE

OP NO.12545/03

JUDGMENT

11th DECEMBER, 2006